

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 7078

IN THE MATTER OF:

Served March 6, 2003

Application of JET TOURS USA, INC.,)
for a Certificate of Authority --)
Irregular Route Operations)

Case No. AP-2002-133

Applicant seeks a certificate of authority to transport passengers in irregular route operations between points in the Metropolitan District, restricted to transportation in vehicles with a seating capacity of less than 16 persons only, including the driver. The application is unopposed.

The Compact, Title II, Article XI, Section 7(a), authorizes the Commission to issue a certificate of authority if it finds that the proposed transportation is consistent with the public interest and that the applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

Applicant proposes commencing operations with one van. Applicant's proposed tariff contains per capita sightseeing rates, per capita transfer rates, with and without sightseeing, and a group sightseeing fare.

Applicant verifies that: (1) applicant owns or leases, or has the means to acquire through ownership or lease, one or more motor vehicles meeting the Commission's safety requirements and suitable for the transportation proposed in this application; (2) applicant owns, or has the means to acquire, a motor vehicle liability insurance policy that provides the minimum amount of coverage required by Commission regulations; and (3) applicant has access to, is familiar with and will comply with the Compact, the Commission's rules, regulations and orders, and Federal Motor Carrier Safety Regulations as they pertain to transportation of passengers for hire.

Applicant held WMATC Certificate of Authority No. 315 from October 17, 1995, to February 21, 2002, when it was revoked in Order No. 6551 for applicant's willful failure to comply with the insurance provisions of the Compact and regulations thereunder.¹ Order No. 6551 directed applicant to surrender Certificate No. 315 to the Commission

¹ In re Jet Tours USA, Inc., No. MP-02-06, Order No. 6551 (Feb. 21, 2002).

and file a notarized affidavit verifying removal of the markings placed on its vehicle(s) pursuant to Commission Regulation No. 61.

Applicant filed a notarized statement on June 25, 2002, explaining that Certificate No. 315 was not in its possession, that the last known location of Certificate No. 315 was applicant's Washington office and that applicant had not had access to that office since January 2002. The statement, however, failed to verify removal of the markings placed on applicant's vehicle(s) pursuant to Commission Regulation No. 61.

Applicant filed an application to reinstate Certificate No. 315 on August 6, 2002. The Commission denied the application without prejudice for failure to demonstrate regulatory compliance fitness on the grounds that applicant still had not verified removal of the vehicle markings and that neither the application nor the June 25, 2002, statement explained why the vehicle list filed with the application listed only one of the two vehicles applicant reported in its WMATC annual reports for 2000 and 2001.² The Commission held that unless and until applicant submitted an affidavit under oath verifying removal of the markings placed on applicant's vehicle(s) pursuant to Commission Regulation No. 61, indicating the date said markings were removed, and accounting for the whereabouts of both vehicles reported in applicant's WMATC annual reports for 2000 and 2001, the Commission could not say that applicant was fit as to regulatory compliance.³ On November 15, 2002, applicant submitted an affidavit verifying the removal of vehicle markings in May 2002 and accounting for the whereabouts of both vehicles reported in applicant's WMATC annual reports for 2000 and 2001.

When an applicant has a record of violations, the Commission considers the following factors in assessing the likelihood of future compliance: (1) the nature and extent of the violations, (2) any mitigating circumstances, (3) whether the violations were flagrant and persistent, (4) whether applicant has made sincere efforts to correct its past mistakes, and (5) whether applicant has demonstrated a willingness and ability to comport with the Compact and rules and regulations thereunder in the future.⁴ In this case the violations are: (1) the failure to maintain insurance; (2) the failure to return the original Certificate No. 315; and (3) the failure to timely remove, and verify the removal of, vehicle markings as directed by Order No. 6551. The Commission routinely reinstates certificates of authority revoked for insurance violations where, as here, there is no

² In re Jet Tours USA, Inc., No. AP-02-94, Order No. 6878 (Oct. 30, 2002).

³ Id.

⁴ In re Associated Community Servs., Inc., No. AP-02-88, Order No. 6839 (Oct. 3, 2002).

evidence of operations while suspended and revoked.⁵ The failure to return the original Certificate No. 315 has been adequately explained in applicant's notarized statement of June 25, 2002, discussed above. There is no evidence the vehicles in question were operated while still marked with WMATC No. 315, and the requisite affidavit verifying removal has been filed.

Based on the evidence in this record, the Commission finds that the proposed transportation is consistent with the public interest and that applicant is fit, willing, and able to perform the proposed transportation properly, conform to the provisions of the Compact, and conform to the rules, regulations, and requirements of the Commission.

THEREFORE, IT IS ORDERED:

1. That upon applicant's timely compliance with the requirements of this order, Certificate of Authority No. 315 shall be reissued to Jet Tours USA, Inc., 229 Murray Hill Parkway, East Rutherford, NJ 07073.

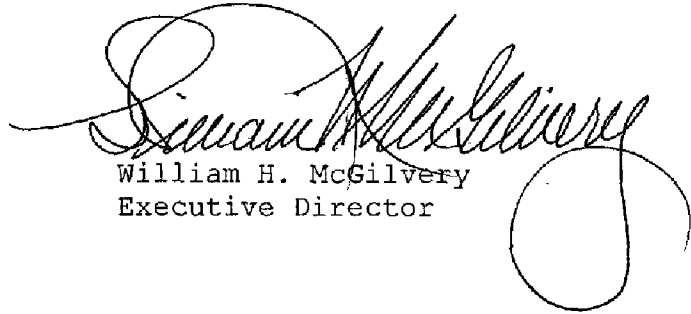
2. That applicant may not transport passengers for hire between points in the Metropolitan District pursuant to this order unless and until a certificate of authority has been issued in accordance with the preceding paragraph.

3. That applicant is hereby directed to file the following documents within thirty days: (a) evidence of insurance pursuant to Commission Regulation No. 58 and Order No. 4203; (b) an original and four copies of a tariff or tariffs in accordance with Commission Regulation No. 55; (c) a vehicle list stating the year, make, model, serial number, fleet number, license plate number (with jurisdiction) and seating capacity of each vehicle to be used in revenue operations; (d) a copy of the for-hire vehicle registration card, and a lease as required by Commission Regulation No. 62 if applicant is not the registered owner, for each vehicle to be used in revenue operations; (e) proof of current safety inspection of said vehicle(s) by or on behalf of the United States Department of Transportation, the State of Maryland, the District of Columbia, or the Commonwealth of Virginia; and (f) a notarized affidavit of identification of vehicles pursuant to Commission Regulation No. 61.

⁵ E.g., In re Yahweh & H.L.R. Corp., No. MP-01-97, Order No. 6487 (Jan. 9, 2002); In re Capitol Bus Rental, Inc., t/a Capitol Tours, No. MP-01-39, Order No. 6331 (Aug. 23, 2001); In re Thomas Tours, Inc., No. MP-00-72, Order No. 6146 (Mar. 15, 2001); In re Double Decker Bus Tours W.D.C., Inc., t/a Double Decker Bus Washington, D.C., No. MP-98-55, Order No. 5483 (Dec. 8, 1998); In re Safe Haven, Inc., No. MP-98-46, Order No. 5446 (Nov. 10, 1998).

4. That the grant of authority herein shall be void and the application shall stand denied upon applicant's failure to timely satisfy the conditions of issuance prescribed herein.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES, MILLER AND MCDONALD:



William H. McGilvery
Executive Director